THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :12699 OF 2004

DATED:31-08-2007

BETWEEN:

L.Mohan Raj.

.....
PETITIONER

AND

The Station House Officer,
Saifabad police station,
Hyderabad & 2 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the inaction of the respondents in taking steps to investigate and file charge sheet in Cr.No.318 of 2000, Saifabad police station under the S.C & S.T. (Prevention of Atrocities) Act (for brevity, 'the Act'), as illegal, arbitrary amounting to dereliction of duty; and to direct the 2nd respondent to forthwith complete the investigation in the said case and file final report under Section 173(2)Cr.P.C.

3. It is stated that the petitioner belongs to Scheduled Caste and he was the subscriber of a chit run by 'Nirdosh Finance Investment & Chit fund Company Private Limited' in the year, 1993 and he has drawn a sum of Rs.1,90,000/- of the chit money by participating in a bid, and he could not make good his payments to the company in time but paid part of the amount immediately and Rs.1,50,000/- in the year, 1997. It is stated that the company started sending rowdial elements to the house of the petitioner and *in spite* of his inability to pay the amounts he was harassed and beaten. His associates were also beaten and detained by the officials of the Company. It is stated that the Managing Director of the said Company sent two constables from Saifabad police station and pressurized to repay the said amount and *in spite* of

the explanation given by the petitioner police did not heed the same and detained him in the police station without any justification whatsoever. It is further stated that on a complaint filed against the petitioner by one Ram Kumar Tiwari, Cr.No.134/99 was registered for the offence punishable under Sections 448 and 506 IPC and he was tried in C.C.No.440 of 2000 on the file of the XV Additional Metropolitan Magistrate, Hyderabad and was acquitted by order, dated 05-11-2001. It is the case of the petitioner that the said Ram Kumar Tiwari, Managing Director of the Chit Fund Company, scolded the petitioner taking his caste name and also threatened with dire consequences and therefore, he has filed complaints on 10-03-1999; 12-03-1999;
24-05-1999; and 16-05-2000 but as there was no response he had to file a private complaint on the file of the
XV Metropolitan Magistrate, Hyderabad which was referred under Section 156 Cr.P.C. for investigation and only then Cr.No.318 of 2000 was registered by the Sub Inspector of Police , Saifabad.

4. It is further stated that without investigating the case, on 15-12-2000, two constables came to the house of the petitioner stating that there is a notice for him and accordingly he went to the police station and received the notice, dated 12-10-2000, under Section 173 Cr.P.C. from the 2nd respondent stating that the complaint of the petitioner has been referred as 'false'. He has filed a protest application before the concerned Magistrate. On enquiry the concerned Court informed that no such final report has been filed. After repeated enquiries he addressed another complaint to the National Commission for SCs and STs on 14-11-2002 stating that the Investigating Officers are negligent in their duties to be performed under the provisions of the Act and the said

Commission wrote a letter, dated 28-11-2002, to the State's IG in-charge of the offences under the protection of Civil Rights Act. Thus it is the case of the petitioner that in fact, the final report has not been filed but however notice has been served stating that the final report has been filed. Hence, the present Writ Petition is filed on 19-07-2004.

5. It is stated that the original notice, dated 12-10-2000, was issued stating that the final report has been referred as 'false' informing the petitioner that if he wants to oppose the report he will have to do so before the concerned Magistrate within a week from the date of receipt of the notice and in fact, the said notice was served only on 16-12-2000 i.e., after two months from date of the said original notice.

6. On 18-11-2004 learned Government Pleader for Home, on instructions, stated before this Court that the investigation in Cr.No.318 of 2000 on the file of the Saifabad police station was completed long back and final report was filed on
07-11-2000 before the XV Metropolitan Magistrate, Hyderabad. On the said instructions this Court observed that as per the specific case of the petitioner and as per the enquiries of the petitioner no such final report has been filed in the Court and in those circumstances Registry was directed by the order of this Court, dated 18-11-2004, to call for a report from the learned XV Metropolitan Magistrate, Hyderabad whether final report was filed on 07-11-2000 or on any subsequent date. Pursuant to the said report, the learned XV Metropolitan Magistrate sent a report, dated 27-12-2004, stating that the final report filed by the police, Saifabad in Cr.No.318 of 2000 for the alleged offence punishable under Section 3(viii), (ix) (x) of the Act and under Section 337 IPC

was returned with certain objections and the same is not resubmitted till date. Therefore, the instructions given to the learned Government Pleader for Home based on which he has reported that the final report was filed on 07-11-2000 was not correct.

7. Draft counter was filed by one S.Chaturvedi, S/o J.P.Chaturvedi who was working as Inspector of Police, Saifabad stating that on a complaint which was referred by the Court, case was registered in Cr.No.318 of 2000 and after investigation final report was sent to the Court and the same was filed on 07-11-2000, and a copy of the acknowledgment was also said to have been filed. In proof of receipt of the final report, acknowledgement, dated 07-11-2000, was also filed along with the draft counter.

8. 2nd respondent-Assistant Commissioner of Police filed counter stating that a final report was filed after obtaining permission from the higher authorities in the Court on 07-11-2000. On further verification of the records of the IV Metropolitan Magistrate on 18-08-2006 it came to light that the final report was returned by the Court with certain objections and the same was handed over to the Head Constable, P.Ranga Swamy, presently working as Assistant Sub Inspector of Police, Shahinathgunj. The said Assistant Sub Inspector of Police did not hand over the same to the Station House Officer, Saifabad and hence the same could not be resubmitted. It is stated that the said final report which was returned with certain objections from the said Court was misplaced by the Assistant Sub Inspector of Police, Saifabad, (the then Head Constable of the 1st respondent police station) and therefore, the same could not be resubmitted

after complying with the objections. Therefore, disciplinary action is being initiated against the said Ranga Swamy who is responsible for not complying with the objections raised by the Court and not filing the final report. It is stated that after complying with the objections a final report will be filed in the Court. The said counter was filed on 26-08-2006, and ultimately, final report was filed on 05-10-2006.

9. Learned counsel appearing for the petitioner submits that it is not just and proper for the respondents 1 and 2 to throw the entire blame on the Head Constable as it is the duty of all the concerned i.e., Station House Officer and the investigating Officer-Assistant Commissioner of Police to investigate the cases relating to the offences under the Act. Therefore, if the final reports are returned and if the same have not been placed before the concerned Station House Officer and the Enquiry Officer, it is their duty to verify and take appropriate action and therefore there is dereliction of duty on the part of the concerned Station House Officer and the Assistant Commissioner of Police also.

10. It is further stated that under Section 4 of the Act, whoever being public servants wilfully neglects their duties required to be performed by them under the said Act shall be punishable with imprisonment for a term which shall not be less than six months or which may extend to one year. Learned counsel appearing for the petitioner submits that he may be permitted to take appropriate action to punish the concerned public servants under Section 4 of the Act.

11. The said proposed action is nothing to do with the relevant claim in the Writ Petition. Therefore, it is open for the petitioner to

take appropriate action under Section 4 of the Act apart from filing a protest application in respect of the final report.

12. Insofar as the contention that there is dereliction of duties on the part of all the concerned officials whoever dealt with the said case, I am of the opinion that there is no justification in not resubmitting the final report, dated
07-11-2000, having served the notice on the petitioner on
12-10-2000 till 05-10-2006. Police cannot put the complainant in dark and make him to run from pillar to post and Court to Court and only on the report called for by this Court, it came to light that the final report was returned and the same was not at all resubmitted till it is filed on
05-10-2006. Therefore, I am of the opinion that apart from the said Ranga Swamy all the concerned are also responsible in not taking diligent steps in resubmitting the final report. Accordingly, 3rd respondent is directed to cause an enquiry against all the concerned connected with the said case and take appropriate departmental action for dereliction of duties.

13. Accordingly, Writ Petition is disposed of as indicated above. There shall be no order as to costs.

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V.ESWARAIAH,J

31st August, 2007.
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